

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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**IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION**

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) **MDL No. 1456**  
) **Master File No. 01-12257-PBS**  
) **Subcategory Case No. 06-11337**  
)

**THIS DOCUMENT RELATES TO:**

*State of California, ex rel. Ven-A-Care of the Florida  
Keys, Inc. v. Abbott Laboratories, Inc., et al.*  
Case No: 1:03-cv-11226-PBS

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) **Judge Patti B. Saris**  
)  
) **Magistrate Judge**  
) **Marianne B. Bowler**  
)  
)

**MOTION OF DEFENDANTS DEY, INC., DEY, L.P.,  
MYLAN INC., AND MYLAN PHARMACEUTICALS INC.  
FOR LEAVE TO FILE UNDER SEAL CERTAIN  
DOCUMENTS CONTAINING CONFIDENTIAL MATERIAL**

Defendants Dey, Inc. and Dey L.P., (collectively, “Dey”) and Mylan Inc.

(formerly known as Mylan Laboratories Inc.) and Mylan Pharmaceuticals Inc. (collectively,

“Mylan”) by their attorneys, respectfully move this Court, pursuant to Local Rule 7.2 and the

Protective Order entered in this Mutli-District Litigation on December 13, 2002, for leave to file

under seal the following documents:

- A full unredacted version of Defendants Dey, L.P. and Dey, Inc.’s Individual Local Rule 56.1 Statement in Opposition to Plaintiffs’ Local Rule 56.1 Statement of Undisputed Material Facts as to the Dey Defendants (the “Dey Response”); and
- Exhibits 16, 17, 18, 20, 21, and 22 to the Declaration of Sarah Reid in Support of Defendants Dey, L.P. and Dey, Inc.’s Opposition to Plaintiffs’ Motion for Partial Summary Judgment (the “Reid Declaration”);
- A full unredacted version of Defendants Mylan Inc. and Mylan Pharmaceuticals Inc.’s Individual Local Rule 56.1 Statement in Opposition to Plaintiffs’ Local Rule 56.1 Statement of Undisputed Material Facts as to the Mylan Defendants (the “Mylan Response”); and
- Exhibits W, Y, Z, and AA to the Declaration of Christopher C. Palermo in Support of Defendants Mylan Inc. and Mylan Pharmaceuticals Inc.’s Opposition to Plaintiffs’ Motion for Partial Summary Judgment (the “Palermo Declaration”).

Also concurrent with this motion, Dey will be filing a redacted version of the Dey Response and Mylan will be filing a redacted version of the Mylan Response. The unredacted Dey Response and Mylan Response contain citations to and quotations from the depositions of Rule 30(b)(6) designees of Cardinal Health, Inc. and McKesson Corporation which have been designated as confidential by these deponents. Exhibits 17, 18, 20, 21, and 22 to the Reid Declaration and Exhibits Y, Z, and AA of the Palermo Declaration contain excerpts of the transcripts of these depositions. Defendants requested permission from these deponents' counsel to file this material publicly, but was not able to obtain their consent.

Exhibit W to the Palermo Declaration and Exhibit 16 to the Reid Declaration are expert reports which have been designated as confidential, *inter alia*, because they contain information concerning Dey's and Mylan's marketing and pricing of pharmaceutical products.

WHEREFORE, Dey respectfully requests that the Court grant Dey leave to file the Dey Response, Exhibits 16 17, 18, 20, 21, and 22 to the Reid Declaration, the Mylan Response, and Exhibits W Y, Z, and AA to the Palermo Declaration under seal.

Dated: December 21, 2009

Respectfully submitted,

/s/ Sarah L. Reid

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/s/ Christopher C. Palermo

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**CERTIFICATIONS PURSUANT TO LOCAL RULES 7.1**

I, Sarah L. Reid, hereby certify that counsel for Defendants conferred with counsel for the State of California regarding the issues raised in this motion on December 21, 2009. Counsel for the State of California has indicated that it consented to the motion.

s/ Sarah L. Reid

Sarah L. Reid

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on December 21, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

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/s/ Sarah L. Reid

Sarah L. Reid